

EXHIBIT 58

Vito, Robert - Vol. II
Philadelphia, PA

June 20, 2007

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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

VOLUME II

IN RE: PHARMACEUTICAL : MDL NO. 1456
INDUSTRY AVERAGE WHOLESALE : CIVIL ACTION:
PRICE LITIGATION : 01-CV-12257-PBS
:
THIS DOCUMENT RELATES TO :
U.S. ex rel. Ven-A-Care of :
the Florida Keys, Inc. v. :
Abbott Laboratories, Inc. :
No. 06-CV-11337-PBS :

- - -

Continuation of the videotaped
deposition of ROBERT VITO was taken, pursuant
to notice, at MORGAN LEWIS & BOCKIUS, LLP,
1701 Market Street, Philadelphia,
Pennsylvania, on Wednesday, June 20, 2007,
beginning at 8:43 a.m., before M. Kathleen
Muino, Professional Shorthand Reporter, Notary
Public; Michael Hunterton, Certified Legal
Video Specialist, there being present:

Henderson Legal Services
202-220-4158

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<p style="text-align: right;">Page 398</p> <p>1 MR. TORBORG: I'm just going to ask if 2 this is it. So if I -- if I could just show him my 3 copy of it that has it and then you can share with 4 them. 5 MR. NEAL: I have no objection to that. 6 MR. TORBORG: Okay. 7 BY MR. TORBORG: 8 Q. Is that the guidance that you're 9 familiar with? 10 A. That -- that's what I remember, yes. 11 Q. Do you -- do you recall anything else 12 where OIG or HCFA provided guidance to 13 manufacturers regarding AWP? 14 MR. NEAL: Object -- 15 MR. AZORSKY: Objection to the form. 16 MR. NEAL: I'll object to the form. 17 You can answer. 18 THE WITNESS: I don't remember. 19 BY MR. TORBORG: 20 Q. Okay. And do you recall commenting to 21 your staff your frustration with the fact that the 22 government had never defined or providing guidance</p>	<p style="text-align: right;">Page 400</p> <p>1 Q. Do you recall commenting to your staff 2 that you were frustrated that the government was 3 using a reimbursement met -- metric, AWP, that was 4 not regulated in any way? 5 MR. AZORSKY: Objection to form. 6 MR. NEAL: The same objection. 7 THE WITNESS: I -- I -- I was frustrated 8 in -- in that that was used to set prices and it 9 didn't seem to have a basis for the... 10 BY MR. TORBORG: 11 Q. Did you in any way participate in the 12 effort from the OIG, office of general -- office of 13 counsel to provide guidance to manufacturers? 14 A. I'm sure that I was involved in this, 15 but to the extent and the details, I don't 16 remember, but I'm sure that I was. 17 Q. And do you recall asking OIG and the 18 counsel office -- counsel's office at OIG to 19 provide this guidance at an earlier time than 2003? 20 A. I don't remember that at all, un-uh. 21 Q. What you recall was being frustrated 22 that the government was using a reimbursement mech</p>
<p style="text-align: right;">Page 399</p> <p>1 to how AWP's should be reported? 2 MS. LIANG: Objection to form. 3 MR. AZORSKY: Objection to form. 4 MR. NEAL: I'll join the objection. 5 You can answer. 6 THE WITNESS: Could you repeat that 7 question? 8 BY MR. TORBORG: 9 Q. Do you recall commenting to your staff 10 your frustration that the United States government 11 never provided any definition or guidance on how 12 AWP's should be reported -- should be reported and it 13 was not regulated in any way? 14 MR. NEAL: Objection as to form. 15 THE WITNESS: Well, that's two questions 16 there -- 17 BY MR. TORBORG: 18 Q. Okay. 19 A. -- and -- and the one question about it 20 not being defined, I've testified before Congress 21 that AWP is not defined, not auditable, so I -- I 22 have those statements on the record.</p>	<p style="text-align: right;">Page 401</p> <p>1 -- mechanism that was not regulated? 2 MR. NEAL: Objection as to form. 3 MR. AZORSKY: Objection as to form. 4 BY MR. TORBORG: 5 Q. Was that fair to say? I -- if I -- 6 A. Well -- well, I was also -- 7 MR. AZORSKY: Objection to form. 8 THE WITNESS: -- frustrated -- 9 MR. NEAL: The same objection. 10 You can go ahead and answer. 11 THE WITNESS: I was also frustrated 12 because we were issuing these reports and we were 13 demonstrating that the prices that were listed at 14 AWP were not the prices that were actually in 15 there, and I was wondering why, you know, there 16 wasn't change. And change by the manufacturers as 17 well, why were they -- they knew. 18 And, apparently, at one of the hearings, 19 the 2001 hearing, it -- it said that they knew that 20 they could set it and they could set it overnight, 21 and I just wondered why they would continue to do 22 that.</p>

29 (Pages 398 to 401)